

**ASSEMBLY BILL**

**No. 283**

**Introduced by Assembly Member Koretz**  
**(Coauthor: Assembly Member Maze)**  
(Coauthor: Senator Margett)

February 9, 2005

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An act to add Section 11100.01 to the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 283, as introduced, Koretz. Pseudoephedrine: retail sale.

(1) Under existing law, a retailer who makes an over-the-counter retail sale of pseudoephedrine is generally subject to a 3 package per transaction limitation or 9 gram per transaction limitation. Any violation of this requirement is a crime, punishable as specified.

This bill would provide that the dispensing, sale, or distribution at retail of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine shall be subject to specified additional requirements. The transaction would be required to be made in a pharmacy located and currently licensed in this state and by a pharmacist or pharmacy technician who is currently licensed in this state. Before distributing or selling any product to a purchaser, the pharmacist, pharmacy technician, or pharmacy clerk would be required to request government issued photo identification from the purchaser and to obtain specified information to be recorded in a written transaction log or receipt. The pharmacy would be required to maintain the information for at least 3 years from the date of purchase such that the information would be readily retrievable and available to law enforcement upon request during the pharmacy's normal operating hours. A violation of any of these provisions would be a

misdemeanor, punishable as specified. By creating new crimes, this bill would impose a state-mandated local program upon local governments.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 11100.01 is added to the Health and  
2 Safety Code, to read:

3 11100.01. (a) In addition to any requirement specified in  
4 Section 11100, the dispensing, sale, or distribution at retail of any  
5 compound, mixture, preparation, or product that contains any  
6 detectable quantity of pseudoephedrine, or any detectable  
7 quantity of any salt, optical isomer, or salt of an optical isomer of  
8 pseudoephedrine, shall be subject to the following requirements:

9 (1) The dispensing, sale, or distribution at retail of any product  
10 specified in subdivision (a) shall be made in a pharmacy located  
11 and currently licensed in this state.

12 (2) The dispensing, sale, or distribution at retail of any  
13 product specified in subdivision (a) shall be made only by a  
14 pharmacist or pharmacy technician who is currently licensed in  
15 this state or by a pharmacy clerk under the supervision of a  
16 currently licensed pharmacist or pharmacy technician.

17 (b) Before distributing or selling any product specified in  
18 subdivision (a) to a purchaser, a pharmacist, pharmacy  
19 technician, or a pharmacy clerk shall request government issued  
20 photo identification from the purchaser and shall obtain the  
21 following information to be recorded in a written transaction log  
22 or receipt:

23 (1) Date of purchase.

24 (2) Name and amount of product purchased.

25 (3) Government issuer of the photo identification.

26 (4) Identification number.

1 (5) Purchaser's full name printed in legible form.

2 (6) Purchaser's signature.

3 (c) The pharmacy shall maintain the written transaction log or  
4 receipt for at least three years from the date of purchase either in  
5 an automated data processing or manual record mode such that  
6 the information is readily retrievable and available to law  
7 enforcement upon request during the pharmacy's normal  
8 operating hours.

9 (d) This section shall not apply to any compound, mixture, or  
10 preparation in liquid, liquid capsule, or gel capsule form in which  
11 pseudoephedrine is not the only active ingredient.

12 (e) (1) The Department of Justice may adopt rules and  
13 regulations in accordance with Chapter 3.5 (commencing with  
14 Section 11340) of Part 1 of Division 3 of Title 2 of the  
15 Government Code that exempt a substance from the application  
16 of subdivision (a) if the department finds that the substance is not  
17 used in the unlawful manufacture of methamphetamine or any  
18 other controlled substance.

19 (2) The Department of Justice shall, upon satisfactory  
20 application by the manufacturer of a drug product to the  
21 department, exempt any product the department determines to  
22 have been formulated in such a way as to effectively prevent the  
23 conversion of any active ingredient in the product into  
24 methamphetamine or any other controlled substance.

25 (f) (1) A first violation of this section is a misdemeanor.

26 (2) Any person who has previously been convicted of a  
27 violation of this section or Section 11100 shall, upon a  
28 subsequent conviction thereof, be punished by imprisonment in a  
29 county jail not exceeding one year, by a fine not exceeding ten  
30 thousand dollars (\$10,000), or by both the fine and  
31 imprisonment.

32 (g) It is the intent of the Legislature that this section and  
33 Section 11100 shall preempt all local ordinances or regulations  
34 governing the sale by a retail distributor of over-the-counter  
35 products containing pseudoephedrine.

36 SEC. 2. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 the only costs that may be incurred by a local agency or school  
39 district will be incurred because this act creates a new crime or  
40 infraction, eliminates a crime or infraction, or changes the

1 penalty for a crime or infraction, within the meaning of Section  
2 17556 of the Government Code, or changes the definition of a  
3 crime within the meaning of Section 6 of Article XIII B of the  
4 California Constitution.

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